

Labor

PUBLIC 490 An Act to Clarify the Application of Workers' Compensation Coverage Requirements to Wood Harvesters LD 2052

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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Public Law 2001, chapter 490 clarifies the exemption from workers compensation law for persons engaged in harvesting forest products. It provides that family members and certain partners of persons who contract with landowners need not themselves qualify as independent contractors as long as the person who contracts with the landowner meets the criteria for obtaining a certificate of independent status or a predetermination of independent contractor status.

PUBLIC 518 An Act to Clarify the Treatment of Members of Limited Liability Companies Under the Workers' Compensation Laws LD 2053

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| | OTP-AM | H-793 |

Public Law 2001, chapter 518 clarifies that members of limited liability companies are treated the same as partners in limited partnerships for certain purposes under the workers compensation law. It allows a member of a limited liability company to elect to be personally covered by the law and it allows certain family members of limited liability companies to waive coverage under the law.

PUBLIC 545 An Act to Authorize Certain Former Members of the Maine State Retirement System to Rejoin the Maine State Retirement System LD 1884

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| YOUNGBLOOD FISHER | OTP-AM | S-445 |

Public Law 2001, chapter 545 allows Maine Technical College System employees who are former members of the Maine State Retirement System who opted out of the membership in the retirement system in order to participate in the defined contribution plan offered by the MTCS through the Teachers Insurance and Annuity Association/College Retirement Equities Fund in 1999 and 2000 to switch back to membership in the retirement system within a 6-month period provided they repay the amount of their withdrawn contributions plus interest. Chapter 545 also provides that employees of the Maine Technical College System who were not former members of the Maine State Retirement System and who elected to join the defined contribution plan when they became employees of the MTCS may elect to join the retirement system under the same conditions. The law also allows both employees of the MTCS who are former members of the Maine State Retirement System and those who are not former members of the Maine State Retirement System and who elect to join or rejoin the retirement system under this law to purchase service credit under the retirement system for the period of time they participated in the

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defined contribution plan offered by the MTCS if they pay to the retirement system the full actuarial cost of the benefit associated with that service.

PUBLIC 556 An Act to Expedite Employment in Maine Industry

LD 2066

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| BENNETT | OTP-AM | S-459 |

Public Law 2001, chapter 556 permits employers to perform a screening test on job applicants using a so-called "rapid response" test. Such tests are read at the point of collection rather than being sent to a laboratory for analysis. If the screening test is positive, it must be sent to a qualified laboratory for analysis. Positive results may be used to reject an applicant only if the laboratory confirms the positive result. If the "rapid-response" test is used, the employer's written policy must include procedures for ensuring confidentiality of test results and for training.

PUBLIC 557 An Act to Clarify the Status of Retirees Who Return to Service Under the Maine State Retirement System

LD 1970

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| NORTON EDMONDS | OTP-AM | H-874 |

Public Law 2001, chapter 557 clarifies that a retired teacher who returns to work under Public Law 2001, chapter 442 is eligible upon ceasing work to return to coverage under the group health insurance plan in effect for active teachers in the school unit from which the teacher originally retired, including state payment of a percentage of the premium cost under the Maine Revised Statutes, Title 20-A, section 13451. Chapter 557 further clarifies that a retired teacher who returns to work as a teacher under the provision of chapter 442, which was enacted in 2001, is eligible to participate in the group health insurance plan for active teachers in the school administrative unit in which that teacher is working. The amendment does not affect the ability of a retired teacher, if it is acceptable to the teacher and the new employer, to remain in the group health insurance plan under which that teacher retired pursuant to the Maine Revised Statutes, Title 20-A, section 13451, including state payment of a percentage of the cost of that teacher's health insurance premium.

PUBLIC 622 An Act to Require Logging Contractors to Notify Landowners and Employees of the Cancellation of Workers' Compensation Insurance Coverage

LD 2077

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| | OTP-AM | H-907 |

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Public Law 2001, chapter 622 requires any person who is engaged in harvesting wood products and who is not exempt from carrying workers' compensation coverage for his or her employees to notify landowners and employees within 3 business days of cancellation of a workers' compensation insurance policy. Failure to comply with this law subjects the person to a civil forfeiture of between \$50 and \$100 for each day of noncompliance.

The law also requires the Department of Labor to convene an interagency working group, including the Workers' Compensation Board, to review efforts to enforce the workers' compensation coverage requirement in the forest products harvesting industry, to develop accident-reduction systems in that industry, to consider ways to enhance data collection to assist in reducing accidents and to consider how enforcement and accident prevention can be of benefit in other industries and work places. The law requires the Department to submit its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over labor matters and the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by January 15, 2003. The committees are authorized to report out legislation in response to the report.

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| PUBLIC 625 | An Act to Amend the Law Regarding Severance Pay | LD 2001 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| BOWLES CARPENTER | OTP-AM | H-948 |

Public Law 2001, chapter 625 requires the Department of Labor to adopt rules to clarify implementation of the severance pay law. Initial rules must be provisionally adopted as major substantive rules and submitted to the Legislature for review by January 15, 2003.

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| PUBLIC 628 | An Act to Amend the Maine Overtime Pay Provisions Regarding | LD 2108 |
| EMERGENCY | Certain Drivers and Drivers' Helpers | |

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| BUNKER TURNER | OTP-AM | H-999 |

Public Law 2001, chapter 628 provides, retroactive to January 1, 1995, that interstate truck drivers and driver's helpers whose hours are regulated by the federal Motor Carrier Act are exempt from Maine's overtime law. However, beginning September 1, 2003, most such drivers and driver's helpers will be exempt from the overtime law only if they receive overtime pay reasonably equivalent to the pay that would be required under Maine's overtime law. The Department of Labor may adopt major substantive rules setting forth standards for determining whether pay is "reasonably equivalent." Also retroactive to January 1, 1995, drivers and driver's helpers who are governed by a collective bargaining agreement that regulates such pay, and those who are employed by an entity under contract with the federal government that dictates pay are exempt from the Maine law, regardless of whether they meet the "reasonably equivalent" standard. Cases pending on March 20, 2002 are not affected by the new law.

Public Law 2001, chapter 628 was enacted as an emergency measure, effective April 5, 2002.

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PUBLIC 641 **An Act to Increase the Opportunities of Retired State Employees to Enroll a Spouse or Dependents in the Maine State Health Insurance Plan** **LD 1988**

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| <u>Sponsor(s)</u> DAVIS P COLWELL | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-461 |
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Public Law 2001, chapter 641 authorizes a retired state employee to add coverage of a spouse or dependent under the retiree's state group health insurance plan at the time of retirement or at a later date if the retiree had designated that spouse or dependent for later coverage and the spouse or dependent can demonstrate at least 18 months of continuous coverage under another health insurance plan at the time of enrollment. Current law, which is not changed by chapter 641, allows a spouse or dependents to be added at the time of significant life events, such as marriage or birth of a child. The retiree is responsible for payment of the premiums for a spouse or dependent enrolled in coverage under the state group plan.

PUBLIC 646 **An Act to Provide Retirement Equity for Capital Security Officers** **LD 2028**
EMERGENCY

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| <u>Sponsor(s)</u> COLWELL DAGGETT | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> H-846 |
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Public Law 2001, chapter 646 includes capital security officers in the Maine State Retirement System 1998 Special Plan effective July 1, 2002

Public Law 2001, chapter 646 was enacted as an emergency measure effective July 1, 2002.

PUBLIC 657 **An Act to Protect Retirement Income** **LD 2006**

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| <u>Sponsor(s)</u> COLWELL MARTIN | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> H-873 |
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Public Law 2001, chapter 657 provides that, beginning July 1, 2002, a Legislator who is a public school teacher or an employee of the Vocational-Technical Institute System who takes a leave of absence in order to serve as a Legislator may make contributions to the Maine State Retirement System on the amount that represents the difference between the salary earned as a Legislator and the salary the Legislator would have received in the Legislator's job as a teacher thus preserving a higher level of compensation for purposes of calculating retirement benefits. The law also requires the State to pay the employer share of contributions on the difference between the legislative salary and the teaching salary of those who elect the option.

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PUBLIC 663 **An Act Regarding Workers' Compensation Benefits for Firefighters, Rescue Workers and Safety Workers Who Contract Certain Communicable Diseases** **LD 1746**

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| DUPLESSIE | OTP-AM | H-931 |

Public Law 2001, chapter 663 provides that a firefighter, emergency medical services person, law enforcement officer or corrections officer who contracts hepatitis, meningococcal meningitis or tuberculosis is presumed under the workers' compensation law to have contracted the disease in the course of employment if certain criteria are met. First, the person must have run a high risk of exposure in the course of that work. Second, the person must sign an affidavit stating that, to the best of the person's knowledge, there are not other likely sources of the disease. Third, a person must have received immunization against the diseases if the employer requires it and the immunization is medically recognized, unless the worker's physician determines that the immunization would pose a risk to the worker. Finally, except for persons employed or providing service prior to the effective date of the bill, the person must have had a negative test for hepatitis or tuberculosis prior to diagnosis.

PUBLIC 684 **An Act to Promote Organ Donation** **LD 1945**

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| MARLEY BROMLEY | OTP-AM | H-840 S-554 GOLDTHWAIT |

Public Law 2001, chapter 684 amends the state Family and Medical Leave Act to authorize a person to take leave from his or her job in order to donate an organ to be used for human organ transplant.

PUBLIC 685 **An Act to Promote Safety of Families through the Workplace** **LD 1960**

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| SAXL EDMONDS | OTP-AM | H-841 S-555 GOLDTHWAIT |

Public Law 2001, chapter 685 amends the law allowing victims of violence to take a leave from work to attend to legal and medical needs arising from the violence. Chapter 685 allows a person to take leave to attend to the needs of a child, parent or spouse who is the victim of violence as well as being able to take a leave if the employee himself or herself is the victim.

PUBLIC 692 **An Act to Increase the Workers' Compensation Insurance Assessment to Fund a Hearing Officer Position** **LD 2051**

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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| | OTP-AM MAJ | S-583 MARTIN |
| | ONTP MIN | |

Public Law 2001, chapter 692 increases the cap on the Workers Compensation Board Administrative Fund assessment from \$6,735,000 to \$6,860,000 beginning in fiscal year 2002-03. It also allocates the additional \$125,000 to be used by the Board to fund a hearing officer in the Caribou regional office of the Workers Compensation Board, and authorizes an additional hearing officer position for the Board.

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| PUBLIC 699 | An Act to Amend Maine State Retirement System Statutes | LD 2185 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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Public Law 2001, chapter 699 accomplishes 2 purposes. First, it includes within the definition of “teacher” under the Maine State Retirement System a school employee for whom certification by the Department of Education is required whose duties include either (1) the setup, maintenance or upgrading of a school computer system the purpose of which is to assist in the introduction of new learning to students or (2) providing school faculty orientation and training related to use of the computer system.

Second, chapter 699 repeals the current law that provides for reduction in benefits for retirees of participating local districts under the Maine State Retirement System who return to employment in a participating local district covered by the retirement system if they exceed certain earnings limitations. The bill would permit retirees to return to covered service and keep both their pension and their full earnings. Retirees who take advantage of the provisions of the bill would not be eligible to earn additional retirement benefits based on their return to service employment. This part of the bill is similar to Public Law 2001, chapter 442 enacted last year and covering state employees and teachers.

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| PUBLIC 701 | An Act Concerning Disability Retirement Benefits under the Maine State Retirement System | LD 2197 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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Public Law 2001, chapter 701 extends the rollback of disability retirement benefit reductions based on increased earnings capacity by the Maine State Retirement System under Public Law 2001, chapter 443 from January 1, 2003 to February 15, 2004.

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| PUBLIC 706 | An Act to Protect Workers from Unilateral Imposition of Random or Arbitrary Drug Testing | LD 2098 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| DUNLAP | OTP-AM MAJ | H-887 |
| CATHCART | ONTP MIN | S-537 EDMONDS |

Public Law 2001, chapter 706 amends the law governing random substance abuse testing in the workplace. Chapter 706 provides that an employer that chooses to implement a random testing program through collective bargaining may not implement such a program through implementation of the employer's last best offer when bargaining reaches an impasse.

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| PUBLIC 707 | An Act to Address the Unfunded Liability of the Maine State Retirement System and the Equity of Retirement Benefits for State Employees and Teachers | LD 2199 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| MICHAUD MH | OTP-AM | S-521 |
| SAXL | | S-618 GOLDTHWAIT |

Public Law 2001, chapter 707 requires the State to retire the unfunded liabilities of the Maine State Retirement System at a specific rate that is not less than the amount paid during the immediately preceding fiscal year. If the unfunded liability payment which is actuarially determined would be less than the amount paid in the immediately preceding year, the Board of Trustees of the Maine State Retirement System is directed to recommend a methodology to adjust plan funding in order to realize payment of the required amount; if no such methodology can be identified, then a General Fund appropriation in the amount of the difference between the General Fund portions of the unfunded liability payment in the 2 years in question must be sought.

Chapter 707 also establishes the Task Force to Study Methods of Addressing Inequities in the Retirement Benefits of State Employees and Teachers to study the impact of the changes made to the law that treat state employees and teachers who did not have 10 years of creditable service on July 1, 1993 less favorably than those with 10 years of creditable service before July 1, 1993. The Task Force is to report to the Labor Committee which is authorized to introduce legislation to the First Regular Session of the 121st Legislature.

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| PUBLIC 712 | An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible of Duration of Disability Benefits in Accordance with the Workers' Compensation Act | LD 2202 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| KILKELLY | OTP-AM MIN | S-623 |

Public Law 2001, chapter 712 amends the Workers' Compensation Act of 1992 to provide specific rules for determining the degree of an injured worker's permanent impairment, for purposes of determining whether the

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worker is entitled to benefits for the duration of disability. The law provides that the permanent impairment calculation includes impairment from (1) the current work injury; (2) other injuries or physical conditions that are aggravated or accelerated by the current work injury; and (3) for injuries occurring on or after January 1, 2003, prior work injuries that contribute to the employee's disability, if the worker received a benefit for that prior work injury under the Maine Workers' Compensation Act of 1992, the prior injury was not found to be ineligible under that Act, and the worker did not receive a lifetime lump sum settlement for that injury. The rules apply to permanent impairment determinations for injuries occurring on or after January 1, 1993, but it does not change any determination that was made and finalized before the effective date of the new law. Chapter xxx also assists the Workers Compensation Board in revising the threshold for determining eligibility for duration-of-disability benefits by requiring the Board to hire actuaries and to submit the issue to arbitration if the board is unable to adjust the threshold.

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| P & S 60 EMERGENCY | An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 2003 | LD 2030 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> OTP | <u>Amendments Adopted</u> |
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Private and Special Law 2001, chapter 60 establishes annual administrative operating budge of the Maine State Retirement System for fiscal year 2002-03.

Private and Special Law 2001, chapter 60 was enacted as an emergency measure effective July 1, 2002.

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| P & S 70 | An Act to Safeguard Volunteer Firefighters' Regular Employment | LD 1946 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
| HUTTON | OTP-AM MAJ | H-947 |
| KILKELLY | ONTP MIN | S-536 O'GARA |

Private and Special Law 2001, chapter 70 requires the Maine Fire Protection Services Commission to examine the issue of providing protection to a volunteer firefighter from being discharged or disciplined by an employer on the grounds that the volunteer firefighter arrives late or does not arrive at work because the volunteer firefighter is responding to an emergency. The Commission is required to report its findings and recommendations on the issue to the legislative committees on labor and criminal justice by December 31, 2002. Those committees are authorized to report out legislation in response to the Commission report.

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| RESOLVE 103 EMERGENCY | Resolve, Regarding Legislative Review of Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards | LD 2137 |
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| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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Resolve 2001, chapter 103 authorizes the Department of Labor to finally adopt a rule setting forth the criteria for imposing administrative civil money penalties for certain labor law violations. The rule is Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a major substantive rule of the Department of Labor, Bureau of Labor Standards. The Legislature did not require any change in the rule as provisionally adopted by the department.

Resolve 2001, chapter 103 was finally passed as an emergency measure, effective April 4, 2002.

RESOLVE 115 Resolve, to Continue the Study of the Benefits and Costs for LD 2058
Increasing Access to Family and Medical Leave for Maine Families

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| | OTP-AM MAJ | H-847 |
| | ONTP MIN | S-545 GOLDTHWAIT |

Resolve 2001, chapter 115 provides for continuation of the Committee to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families, which was created by joint order in the First Regular Session of the 120th Legislature.

RESOLVE 126 Resolve to Fund the Operations of the Workers' Compensation LD 2217
Board for Fiscal Year 2002-03

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
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| NUTTING J BUNKER | | |

Resolve 2001, chapter 126 authorizes the Workers' Compensation Board to use up to \$1,341,750 from its reserve account in fiscal year 2002-2003 to fund operational needs, technological improvements, contracted staff for the worker advocate program, and collective bargaining costs.